LEGISLATIVE SERVICES AGENCY

OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 6812
BILL NUMBER: HB 1186

NOTE PREPARED: Apr 4, 2013
BILL AMENDED: Mar 28, 2013

SUBJECT: Incorporation of Towns.

FIRST AUTHOR: Rep. Price
FIRST SPONSOR: Sen. Bray

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides that proceedings for the incorporation of a town may be initiated by filing a written petition with the county executive of the county that contains all or a majority of the area of the proposed town.

It requires that the petition must be signed by at least 10% of the owners of land in the area of the proposed town.

The bill provides that if a city's consent to the incorporation is required before an incorporation may proceed, the city must consent or deny consent to the request for incorporation not later than 90 days after receiving the request or the city is considered to have consented to the request.

It also requires the county executive to set forth in writing and with specificity the manner in which a petition fails to meet the statutory requirements.

The bill provides that if the county executive finds that the petition satisfies the statutory requirements, the county executive may do any of the following: (1) Adopt an ordinance incorporating the town. (2) Deny the petition. (3) Adopt a resolution to place a public question concerning incorporation on the ballot.

The bill requires petitioners to publish notice of the contents of the petition.

It allows only registered voters residing within the area of the proposed town to vote on the public question. It also provides that if a majority of voters vote "yes" on the public question, the county executive of each county in which the proposed town is located shall adopt an ordinance to incorporate the area as a town.

The bill prohibits another petition for incorporation from being filed within two years after:

(1) A petition is denied by the county executive; or

(2) the date of the election at which a majority of voters vote "no" on the public question concerning incorporation.

Effective Date: July 1, 2013.

Explanation of State Expenditures: The Department of Local Government Finance (DLGF) reviews and approves budgets, levies, and tax rates for towns. Any incorporation of a new town will add to the DLGF's workload. However, the overall increase cost to the DLGF will be determined by the number of new towns incorporated under the bill and is not expected to have fiscal impact.

Explanation of State Revenues:

Explanation of Local Expenditures: To the extent that the petitioners rather than the county executive are responsible for certain notices and special election costs under the bill, the county costs of incorporating a town may be reduced.

Additionally, if a town can provide services for less than the individual residents can contract for the service or than a city annexing an unincorporated territory can provide the services, the property taxpayer in the new town may experience cost savings.

Background and Additional Information: The bill revises the method to incorporate territories into towns in Indiana, but it does not directly create any towns. If a new town is established under the bill, it will require the establishment of governmental structures to provide certain services that are provided by individual resident contract in unincorporated areas. Additionally, an unincorporated area that incorporates as a town would not be subject to annexation by nearby cities.

Current Law - Under current law, a petition for incorporation of a territory as a town is filed with the county executive of each county in which the territory is located. The county executive examines the petition and gives it to the planning commission to make a recommendation. The county executive then holds a public hearing and sends notice of the hearing. The approval of the petition to incorporate is subject to appeal and remonstrance. The county executive has final approval of the incorporation of a territory as a town.

Public Question - Under the bill, a petition for incorporation signed by 10% of landowners in the proposed territory would be submitted to the county executive of the county that contains the majority or all of the territory for the proposed town. If the county executive determines the petition meets certain guidelines, the county executive will adopt a resolution to incorporate the town or place a public question on the ballot at the next general or primary election. If the territory is in more than one county and the question is affirmed, each county that contains part of the town would adopt an identical ordinance establishing the town.

The county executive could also deny the petition, but must specify in writing the manner in which the petition fails to meet the requirements for the form of the petition or attachments to the petition. Further, the legislative body of a city must consent or deny consent within 90 days of a written request, if the consent of the city is required by law.

If the petition includes a request for a special election, the petitioners must pay any costs of the special election. Additionally, the petitioners (instead of the county executive) would be responsible for posting notice in each county affected and for obtaining approval from the legislative body of a consolidated city within four miles of the proposed town or the legislative body of a second or third class city within three miles of the proposed town. [There is an exemption for Hancock County in current statute that would be continued under the bill.]

Explanation of Local Revenues:

State Agencies Affected: Department of Local Government Finance.

Local Agencies Affected: Counties; Towns.

Information Sources:

Fiscal Analyst: Karen Firestone, 317-234-2106.